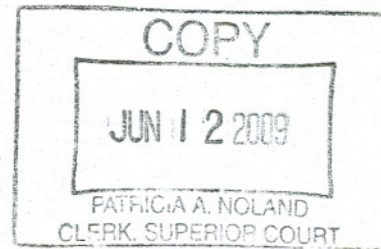


1 TERRY GODDARD  
2 The Attorney General  
3 Firm No. 14000

4 Michael M. Walker, No. 20315  
5 Assistant Attorney General  
6 Civil Rights Division  
7 1275 W. Washington St.  
8 Phoenix, Arizona 85007  
9 Telephone: (602) 542-8608  
Facsimile: (602) 542-8899  
civilrights@azag.gov  
Attorneys for Plaintiff



10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
11  
12 IN AND FOR THE COUNTY OF PIMA

13 THE STATE OF ARIZONA ex rel. TERRY  
14 GODDARD, the Attorney General, and THE  
15 CIVIL RIGHTS DIVISION OF THE ARIZONA  
DEPARTMENT OF LAW,

16 Plaintiff,

17  
18 vs.

19 GOEL ENTERPRISES, INC., d/b/a AAA-1  
20 FLOORING,

21 Defendants.  
22

No.

**C20094472**

**COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF**

(Nonclassified Civil)

**TED B. BOREK**

23 Plaintiff, the State of Arizona ex rel. Terry Goddard, the Attorney General, and the  
24 Civil Rights Division of the Arizona Department of Law (collectively the "State"), for its  
25 Complaint, alleges as follows:  
26



## INTRODUCTION

This is an action brought under the Arizona Civil Rights Act to correct an unlawful employment practice, to provide appropriate relief to an aggrieved person, and to vindicate the public interest. Specifically, the State brings this matter to redress the injury sustained because Defendant Goel Enterprises, Inc.'s ("Defendant") supervisory employee, Frank De La Ossa, engaged in unwelcome sexual conduct toward Charging Party Marissa Lechuga that constitutes an unlawful employment practice in violation of the Arizona Civil Rights Act, A.R.S. § 41-1463(B)(1). The State also brings this action to redress the injury sustained by Marissa Lechuga when Defendant retaliated against her for opposing De La Ossa's unlawful employment practice by adversely altering her pay structure in violation of the Arizona Civil Rights Act, A.R.S. § 41-1464(A) and constructively discharging from her employment.

## JURISDICTION AND VENUE

1. This Court has jurisdiction of this matter pursuant to A.R.S. § 41-1481(D).
2. Venue is proper in Pima County pursuant to A.R.S. § 12-401.

## PARTIES

3. The Civil Rights Division of the Arizona Department of Law is an administrative agency established by A.R.S. § 41-1401 to enforce the provisions of the Arizona Civil Rights Act, A.R.S. § 41-1401 *et seq.*

4. The State brings this action on its own behalf and on behalf of Marissa Lechuga ("Lechuga"), an aggrieved person, as provided by A.R.S. §§ 41-1481(D) and (G).

5. At all relevant times, Defendant Goel Enterprises, Inc. was an Arizona corporation authorized to do, and doing, business in Pima County, Arizona. Defendant is in the business of selling commercial and retail flooring products and operates stores in the Tucson metropolitan area. Defendant's principal place of business is 405 S. Campbell Ave., Tucson, Arizona 85719.



6. At all relevant times, Defendant was an employer within the meaning of A.R.S. § 41-1461(4)(a).

7. At all relevant times, Lechuga was Defendant's employee within the meaning of A.R.S. § 41-1461(3)(a).

8. The State is informed and believes and therefore alleges that Defendant is legally responsible for the acts or omissions giving rise to this cause of action and legally and proximately responsible for damages as alleged pursuant to A.R.S. § 41-1481(G).

## BACKGROUND

9. Lechuga began working for Defendant in or around July 2006 at Defendant's store located at 3720 W. Ina Rd. #124, Tucson, Arizona. When she complained of repeated unwelcome sexual comments by the store manager, Lechuga was transferred to a different store location.

10. In March 2007, Lechuga was promoted to a sales position and Defendant assigned her to work at its store located at 4675 E. Speedway Blvd., Tucson, Arizona ("Speedway location"). Frank De La Ossa was Lechuga's supervisor at the Speedway location and the two were the only employees who worked at the Speedway location.

11. De La Ossa is the nephew of Defendant's Chief Executive Officer, President and majority share holder, Yolanda Thomas.

12. At all relevant times, Defendant had no policy prohibiting sexual harassment and had no policy for reporting sexual harassment.

13. At all relevant times, Defendant had never provided any training to its employees regarding prohibitions against sex discrimination, including prohibitions against sexual harassment

14. While Lechuga was working at the Speedway location and throughout her employment working under De La Ossa's supervision, De La Ossa made repeated, pervasive unwelcome sexually charged comments to Lechuga including graphic descriptions of his



1 sexual fantasies about her and his desire to have sex with her, including statements that he  
2 fantasized about her while masturbating in the shower.

3 15. While at work at Defendant's store, De La Ossa also described his past sexual  
4 exploits to Lechuga on several occasions, discussed his sex life with his wife and made  
5 sexually explicit and degrading comments about Lechuga.

6 16. While at work at Defendant's store, De La Ossa also repeatedly grabbed  
7 Lechuga's breasts over her objections and otherwise touched her in a sexual manner.

8 17. On one occasion, De La Ossa came up behind Lechuga while at work and  
9 attempted to lift up her dress and pull down her panties over her objection.

10 18. Lechuga asked De La Ossa on more than one occasion to stop engaging in the  
11 sexually charged conduct, but De La Ossa refused and continued to engage in sexually  
12 inappropriate conduct.

13 19. Lechuga reported De La Ossa to Defendant's Director and Human Resources  
14 Officer, Angela Flores-Thomas ("Flores"). Flores, who is also De La Ossa's cousin and  
15 Yolanda Thomas' daughter, responded that De La Ossa is just that way and that Lechuga  
16 should stay away from him.

17 20. On or about March 19, 2008, De La Ossa approached Lechuga while she was  
18 seated at work, tried to grab her breasts and then forcefully grabbed the back of her neck and  
19 kissed her. Lechuga objected to De La Ossa's conduct and immediately ran to the store's  
20 bathroom sobbing.

21 21. On the same day, Lechuga called Flores and reported De La Ossa's assault to  
22 Flores.

23 22. As a result of De La Ossa's conduct, Lechuga was exposed to pervasive and  
24 severe sexual conduct that altered the terms and conditions of her employment.

25 23. Even though Defendant transferred De La Ossa to another store, Defendant still  
26 required Lechuga to interact with De La Ossa as part of her job duties.



1           24. After Lechuga reported De La Ossa's conduct on March 19, 2008, Yolanda  
2 Thomas' husband and De La Ossa's uncle, Frank Thomas, began supervising Lechuga.

3           25. Frank Thomas and Yolanda Thomas were aware of, and knew, Lechuga had  
4 alleged sex discrimination against De La Ossa. Upon assuming supervision over Lechuga,  
5 Frank Thomas immediately began scrutinizing Lechuga's work performance and criticizing  
6 her for conduct the Thomases had not previously expressed concern over.

7           26. Even though De La Ossa was transferred to a different store, Defendant placed a  
8 camera in the Speedway location to monitor Lechuga.

9           27. In April 2008, approximately one month after Lechuga complained of sex  
10 discrimination, Defendant eliminated Lechuga's fixed hourly wage and told her she would  
11 only earn commissions for her sales.

12           28. Faced with the choice of accepting a reduced salary and having to continue to  
13 work in a retaliatory environment, Lechuga felt compelled to resign her employment and was  
14 constructively discharged.

15           29. On or about May 15, 2008, Lechuga filed a timely charge of discrimination on the  
16 basis of sex and retaliation, and the Civil Rights Division commenced an investigation of the  
17 charge.

18           30. At the conclusion of the investigation, the Civil Right's Division determined that  
19 there was reasonable cause to believe that Defendant discriminated against Lechuga because  
20 of her sex and by retaliating against her when she opposed the discriminatory conduct.

21           31. The Civil Rights Division issued its Cause Finding on May 7, 2009, and since that  
22 time, the Division, Lechuga and Defendant have not entered into a Conciliation Agreement.  
23 The parties having thus exhausted their administrative remedies, the State is authorized to file  
24 this Complaint pursuant to A.R.S. § 14-1481(D).

25 ///

26 ///



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26

## 2

## 3

## 4

5  
6

7  
8  
9

10  
11  
12  
13

14  
15  
16

17

18

## 19

## 20

## 21

22

23

24  
25  
26



39. Defendant unlawfully discriminated against Lechuga in violation of A.R.S. § 41-1464 by retaliating against her after she complained of sex discrimination by over scrutinizing her employment, eliminating her fixed hourly wage and requiring her to work for commission only.

40. As a result of Defendant's retaliatory conduct and Lechuga's constructive discharge, Lechuga suffered monetary damages for which she should be compensated in an amount to be determined at trial pursuant to A.R.S. § 41-1481(G).

41. The State is also entitled to injunctive relief against the Defendant's actions pursuant to A.R.S. § 41-1481(G).

### PRAYER FOR RELIEF

WHEREFORE, the State requests that this Court:

A. Enter judgment on behalf of the State, finding that Defendant unlawfully discriminated against Lechuga because of her sex and retaliated against her for opposing the sex discrimination, in violation of the Arizona Civil Rights Act.

B. Enjoin Defendant, its successors, assigns and all persons in active concert or participation with Defendant, from engaging in any employment practice, including sexual harassment of employees, which discriminates or retaliates in violation of the Arizona Civil Rights Act.

C. Order Defendant to make Lechuga whole and award Lechuga back wages calculated from the date of her constructive termination on or about April 16, 2008 in amounts to be determined at trial.

D. Order Defendant, its successors, assigns and all persons in active concert or participation with Defendant, to create and enforce policies, practices and programs that provide equal employment opportunities for all its employees, and that eradicate the effects of its present unlawful employment practices, including but not limited to, policy changes and training.



1 E. Order Defendant, its successors, assigns and all persons in active concert or  
2 participation with Defendant, to adopt and enforce an equal opportunity in employment policy  
3 that prohibits sexual harassment and that includes a procedure for reporting and investigating  
4 allegations of sexual harassment as well as for sanctioning substantiated allegations of sexual  
5 harassment.

6 F. Order Defendant, its successors, assigns and all persons in active concert or  
7 participation with Defendant, to adopt and enforce an equal opportunity in employment policy  
8 that prohibits retaliation against any employees who oppose an unlawful employment practice  
9 or participate in any investigation of an unlawful employment practice.


10 G. Issue an Order authorizing the State to monitor Defendant's compliance with the  
11 Arizona Civil Rights Act and order Defendant its successors, assigns and all persons in active  
12 concert or participation with Defendant, to pay the State a reasonable amount for such  
13 monitoring.

14 H Award the State its taxable costs incurred in bringing this action.

15 I. Grant such other and further relief as this Court may deem just and proper in the  
16 public interest.

17 Dated this 12<sup>th</sup> day of June, 2009.

18 TERRY GODDARD  
19 Attorney General

20  
21 By Rose Ann Daly-Booney  
22  Michael M. Walker  
23 Assistant Attorney General  
24 Civil Rights Division  
25 Attorneys for Plaintiff  
26

485089